Attorney Docket No.: 061270-0878

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Bruce Williams et al. Serial No.: 10/676,447 Title: Child Seat Filed: October 2, 2003 Group Art Unit: 3636 Examiner: Erika P. Garrett	)	**CERTIFICATE OF MAILING** I hereby certify that this paper and the documents referred to as enclosed therewith are being deposited with the United States Postal Service as first class mail, postage prepaid, on January 3, 2006 in an envelope addressed to MS AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 Bryan J. Lempia Registration No.: 39,746

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the New **Pre-Appeal Brief Conference Pilot Program**, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal, a one-month extension of time request, and the appropriate fees.

REMARKS

The applicants believe that the rejections currently of record are not proper based on clear legal and factual deficiencies, each discussed separately below.

Claims 43-46 and 59-64 are currently pending in this application. A final rejection was issued in this application on September 1, 2005. A response was submitted by the applicants on October 19, 2005 resulting in an Advisory Action dated November 3, 2005. The rejection of pending claims 43-46 and 59-64 was upheld in the Advisory Action, though the amendments would be entered for the purposes of appeal.

All of the pending claims stand rejected under 35 U.S.C. §103(a) as obvious over Chen, U.S. Patent No. 5,895,095 (Chen) in view of Kain, U.S. Patent No. 5,507,558 (Kain).

Legal Deficiency

The final action does not raise a proper motivation or suggestion to combine the reference teachings of Chen with those of Kain. The final action alleges that it would have been obvious to modify the office chair of Chen to incorporate a vehicle safety belt path as taught by Kain. At page 3 of the final action, the examiner states only that it would have been obvious to modify the Chen "child seat" to include a belt path as taught by Kain "in order to make sure the child is properly secured in the vehicle." This statement is not a proper motivation or suggestion and is not supported by the reference teachings. The final action does not identify where in the prior art this "motivation" might be found.

There must be some motivation found within the prior art, and particularly within Chen or Kain, that would have suggested to one of ordinary skill in the art at the time of the invention to incorporate a safety belt path in the conventional office chair of Chen. The final action has identified no particular teaching within Kain that would have motivated one of ordinary skill in the art of child car seats to modify an ordinary office chair to include the belt or belt path of Kain. Similarly, the final action has identified no particular teaching within Chen that would have motivated one to modify the ordinary office chair disclosed in the reference to add a safety belt at all, much less to incorporate a vehicle safety belt path, rendering the ordinary office chair suitable for use as a child seat in a vehicle.

The final action has failed to point to any motivation or suggestion found within the prior teachings to modify and combine the references as proposed in making the rejection. Therefore, a *prima facie* case of obviousness based on a combination of Chen and Kain in rejecting claims 43-46 and 59-64 has not been properly made.

Factual Deficiency

There is no support in the facts for the alleged motivation to modify the "child seat" of Chen to incorporate a seat belt path as taught by Kain "in order to make sure the child is properly secured in the vehicle." This is merely a conclusory statement in the final action, based solely on hindsight and not on any specific prior art teaching. There is no factual support in the prior art as to how the Chen office chair would be rendered suitable as a child seat for a vehicle, simply by adding the Kain belt path. Even a cursory inspection of Chen, including Figure 8, leaves one to wonder how the wheels, legs, and center post of the ordinary office chair would set in a vehicle seat once a child and the chair are "properly secured in the vehicle." Neither Chen nor Kain discloses the necessary motivation or

suggestion to combine the reference teachings in the manner put forth in the final action. Thus, the rejection is factually deficient for at least this reason.

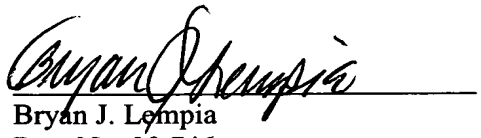
Further, the action indicates that Chen discloses a child seat and points to Figure 8. Figure 8, as well as the entirety of Chen, describes only an ordinary adult office chair, not a chair suitable for a child and certainly not a chair suitable for supporting a child on a vehicle seat. There is no basis for the assertion in the final action that Chen discloses a "child seat," as the phrase is used within the context of the present invention. The rejection is factually deficient for at least this additional reason.

With regard to independent claim 62, neither Chen, Kain, nor their combination teaches or suggests all of the recited limitations. Neither reference discloses the recited receiving portion that is said to include a flexible tab and a protrusion on the flexible tab. Also, neither reference discloses the recited connecting portion that is said to include first and second slots to receive the protrusion wherein the first and second slots correspond to the first and second positions, respectfully. The references, whether taken alone or in combination, fails to teach or suggest these limitations of claim 62. The rejection of claim 62 is factually deficient for this reason as well.

This paper is submitted under the Pre-Appeal Brief Request Pilot Program and sets forth only those clear legal and factually deficiencies in the rejections noted by the applicants. This paper is certainly not intended to be all-inclusive of each and every reason that the rejection of claims 43-46 and 59-64 should be withdrawn. There are additional reasons that will be set forth in detail at a later date, if and when appropriate.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,



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